

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

TINA L. HAYNER

Plaintiff,

vs.

GREGORY L. FROST,
UNITED STATES DISTRICT JUDGE,

and

NORAH McCANN KING,
UNITED STATES MAGISTRATE JUDGE,

Defendants.

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Case No. 2:07cv1097

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JUDGE WALTER HERBERT RICE

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DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS OF THE UNITED STATES MAGISTRATE JUDGE ON POST-JUDGMENT MOTIONS (DOC. #12), FILED MARCH 31, 2008, THUS OVERRULING PLAINTIFF'S (1) MOTION FOR RECONSIDERATION UNDER FED. R. CIV. P. 59 AND 60 (DOC. #6), (2) MOTION TO REVIEW "ENTIRE RECORD INCLUDING QUESTIONS OF FACT AND QUESTIONS OF LAW" (DOC. #9), AND (3) MOTION FOR SUMMARY JUDGMENT (DOC. #11); DECISION AND ENTRY ADOPTING SUPPLEMENTAL REPORT AND RECOMMENDATIONS ON POST-JUDGMENT MOTIONS OF UNITED STATES MAGISTRATE JUDGE (DOC. #14), FILED APRIL 14, 2008, OVERRULING PLAINTIFF'S MOTION FOR RECONSIDERATION DUE TO FED. R. CIV. P. RULE 59(a)(e), MOTION TO ALTER OR AMEND JUDGMENT, MOTION FOR RECONSIDERATION BY WAY OF FED. R. CIV. P. 60(b) RELIEF FROM JUDGMENT OR ORDER AND MOTION FOR DISQUALIFICATION OF CHIEF MAGISTRATE JUDGE MICHAEL MERZ (DOC. #13), CONSTRUED AS OBJECTIONS (DOC. #13) TO MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS ON POST-JUDGMENT MOTIONS (DOC. #12) AND OVERRULING SAME; DECISION AND ENTRY OVERRULING PLAINTIFF'S

MOTION FOR RECONSIDERATION DUE TO FED. R. CIV. P. RULE 59(a) and (e), MOTION FOR THIS DISTRICT COURT TO AMEND A JUDGMENT AND MOTION FOR RECONSIDERATION, FED. R. CIV. P. RULE 60(b) RELIEF FROM JUDGMENT AND ORDERS OF JUDGE MICHAEL MERZ (DOC. #15) CONSTRUED AS OBJECTIONS TO MAGISTRATE JUDGE'S SUPPLEMENTAL REPORT AND RECOMMENDATIONS ON POST-JUDGMENT MOTIONS; DECISION AND ENTRY OVERRULING PLAINTIFF'S FILING OF MAY 15, 2008, WHICH INCLUDES, *INTER ALIA*, OPPOSITION TO ALL ORDERS PREVIOUSLY GIVEN BY MAGISTRATE JUDGE MERZ AND DISTRICT JUDGE SANDRA BECKWITH (DOC. #17); ANTICIPATED REQUEST BY PLAINTIFF FOR LEAVE TO APPEAL *IN FORMA PAUPERIS* DENIED; JUDGMENT TO ENTER ACCORDINGLY; CAPTIONED CAUSE IS NOW IN A POSTURE FOR APPEAL; TERMINATION ENTRY

Pursuant to a thorough review of the entirety of this Court's file, as well as a review of the District Court's Opinion in Case No. 2:06cv705 and the decision of the appellate court affirming same (Doc. #66 in Case No. 2:06cv705), as well as a full consideration of the applicable law, this Court rules as set forth in the caption of this Decision, based upon the reasoning and citations of authority set forth by the United States Magistrate Judge in his Initial (Doc. #12) and Supplemental Report and Recommendations on Post-Judgment Motions (Docs. #12 and #14), on the reasoning set forth by said judicial officer in his Order to Construe Motions for Reconsideration to Amend the Judgment and for Relief from Judgment as Objections (Doc. #16), as well as upon this Court's review of the applicable law with reference to the Plaintiff's most recent filing (Doc. #17), which the Magistrate Judge has not considered. In addition, this Court makes the following observations, merely as a means of emphasis:

1. This case involves only a suit by the Plaintiff against the above captioned two Defendants, judicial officers of the United States District Court for the Southern District of Ohio, Eastern Division, at Columbus.

2. Pursuant to well-established, long-standing law of several centuries, the above captioned judicial officers are absolutely immune from liability, even if they had, in fact, acted maliciously or corruptly, as long as they were performing judicial acts and had jurisdiction over the subject matter giving rise to the lawsuit over which they were presiding. Not only is it clear and obvious that the rulings of which Plaintiff complains in her prior case, *Hayner v. City of Washington Courthouse, et al.*, Case No. 2:06cv705, were 100% sound, based upon the facts and the law presented to those judicial officers, rulings on which the Court of Appeals for the Sixth Circuit has had occasion to affirm, but it is also crystal clear that said judicial officers were performing judicial acts and had jurisdiction over the subject matter of Plaintiff's earlier lawsuit.

3. The present lawsuit by Plaintiff is an attempt to appeal or overturn a result reached in a prior lawsuit by a court of competent jurisdiction, in violation of the *Rooker-Feldman* doctrine. See *Rooker v. Fidelity Trust Company*, 263 U.S. 413 (1923) and *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983).

4. Even if the Defendants herein were not entitled to absolute judicial immunity for the actions taken herein as part of their judicial duties, Plaintiff's claims would be barred by the doctrine of res judicata/collateral estoppel, in that, in order to find liability against the Defendants herein, one would first have to conclude that their actions deprived the Plaintiff of certain rights under the law in Case No. 2:07cv1097. The decision of the appellate court in that matter, unless certiorari is granted by the United States Supreme Court and the matter ultimately decided in her favor by that court, is dispositive of that essential condition precedent.

5. There is no doubt of the sincerity of Plaintiff's positions. In that sense, any appeal from the within decision would not be subjectively frivolous. However, given the doctrine of absolute judicial immunity, which must be applied in this case, any appeal from this Court's decision would be objectively frivolous. Accordingly, this Court will deny any requested motion for leave to appeal *in forma pauperis*.

WHEREFORE, this Court orders the entry of judgment in favor of Defendants and against Plaintiff herein, adopting the Report and Recommendations of the United States Magistrate Judge on Post-judgment Motions (Doc. #12), filed March 31, 2008, thus overruling Plaintiff's (1) Motion for Reconsideration under Fed. R. Civ. P. 59 and 60 (Doc. #6), (2) Motion to Review "Entire Record Including

Questions of Fact and Questions of Law” (Doc. #9), and (3) Motion for Summary Judgment (Doc. #11); adopting Supplemental Report and Recommendations on Post-judgment Motions of United States Magistrate Judge (Doc. #14), filed April 14, 2008, Overruling Plaintiff’s Motion for Reconsideration Due to Fed. R. Civ. P. Rule 59(a)(e), Motion to Alter or Amend Judgment, Motion for Reconsideration by Way of Fed. R. Civ. P. 60(b) Relief from Judgment or Order and Motion for Disqualification of Chief Magistrate Judge Michael Merz (Doc. #13), construed as Objections (Doc. #13) to Magistrate Judge’s Report and Recommendations on Post-judgment Motions (Doc. #12) and overruling same; overruling Plaintiff’s Motion for Reconsideration Due to Fed. R. Civ. P. Rule 59(a) and (e), Motion for this District Court to Amend a Judgment and Motion for Reconsideration, Fed. R. Civ. P. Rule 60(b) Relief from Judgment and Orders of Judge Michael Merz (Doc. #15) Construed as Objections to Magistrate Judge’s Supplemental Report and Recommendations on Post-judgment Motions (Doc. #14) and overruling same; overruling Plaintiff’s Filing of May 15, 2008, Which Includes, *Inter Alia*, Opposition to All Orders Previously Given by Magistrate Judge Merz and District Judge Sandra Beckwith (Doc. #17).

The Plaintiff is denied leave to appeal *in forma pauperis*.

The captioned cause is now in a posture for appeal.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

/s/ Walter Herbert Rice

September 30, 2008

WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Tina L. Hayner, Pro Se